REMARKS

Claims 1-6, 8-11, 13-21 and 23 were originally pending. Claims 1-6, 8-11, 13-21 and 23 have been amended. No claims are canceled, added, or withdrawn. Accordingly, claims 1-6, 8-11, 13-21, and 23 remain pending.

Withdrawal of the outstanding rejections and allowance of the pending subject matter is respectfully requested.

Claim Amendments

Independent claims 1, 8, 16 and 23 have been amended as per the Examiner's suggestions on pages 2 and 3 of the Action. The preambles of dependent claims 2-6, 9-11, 13-15, and 17-21 have been amended to more clearly show antecedent basis to their respective base claims and any intervening claims.

35 USC §101 Rejections

Claims 1-6, 8-11, 13-21 and 23 stand rejected under 35 USC §101 because the claimed invention is directed to non-statutory subject matter. Applicant has amended the rejected claims as per the Examiner's suggestions on pages 2 and 3 of the Action to overcome this rejection. Accordingly, Applicant trusts that these rejections have been overcome.

Withdrawal of the 35 USC §101 rejections to claims 1-6, 8-11, 13-21 and 23 is requested.

35 USC §103 Rejections

Claims 1-6, 8-11, 13-21 and 23 stand rejected under 35 USC §103(a) as being unpatentable over US patent serial no. 6,609,161 to Young in view of Applicant Admitted Prior Art (AAPA). These rejections are traversed.

It is a fundamental aspect of patent law is "[r]eferences cannot be properly combined with each other when such would result in destroying that on which the invention of one of the references is based." *Ex parte Hartmann*, 186 U.S.P.Q. 366, 367 (PTO Bd. App. 1974).

The cited combination of references does not teach or suggest these features of claims 1-6, 8-11, 13-21 and 23. One reason for this is because Young cannot be properly combined with AAPA to arrive at the features of claims 1-6, 8-11, 13-21 and 23 as the Action suggests. Applicant respectfully submits that this is because the features of each reference would destroy the basis on which the other reference is based. That is, and for the reasons discussed below, the teachings of Young will destroy that upon which AAPA is based. Additionally, the teachings of AAPA will destroy that upon which Young is based.

Combining Young with AAPA will destroy that upon which AAPA is based. AAPA teaches a one-dimensional (1-D) run queue where threads are inserted into the queue for execution based on thread priority. AAPA teaches that the **thread priority semantic is "essential** for time-critical responses required in high-performance embedded applications [that] must deliver responses within specified time parameters in real-time" (page 1, lines 11-15). In contrast to AAPA, Young teaches that SCSI command blocks are not sorted with respect to priority so that they can be removed from the queue and executed by a peripheral

device in view of that priority. (The Action admits that Young does not teach or suggest a run queue or threads). Instead, Young teaches that SCSI command blocks are **appended to queues** on a first-in first-out basis so that a SCSI device can execute the command blocks **in the order that they were received** from a host system (Young, col. 3, lines 13-18, col. 2, lines 9-11, and col. 8, lines 56-60). If AAPA were combined with Young in the manner suggested by the Action, Young's appending of command blocks to the end of first or second dimensions of a queue would completely destroy the priority-based scheduling semantic which AAPA describes is essential to the proper functioning of real-time systems.

Moreover, combining Young with AAPA will destroy that upon which Young is based. AAPA's teaches **inserting** threads into a single dimension run queue **based on thread priority**. This means that a thread may not be appended to the end of the queue, but instead may be inserted at some other location in the queue. AAPA also teaches that threads are removed from the queue based on thread priority, not based on when they are added to the queue (i.e., on a first-in-first out basis). In contrast to AAPA, Young teaches that SCSI command blocks are **appended to queues** (per target device) on a first-in first-out basis so that a SCSI device can execute the command blocks **in the order that they were received** from a host system (Young, col. 3, lines 13-18, col. 2, lines 9-11, and col. 8, lines 56-60). If Young were combined with AAPA in the manner suggested by the Action, the priority-based insertion and execution semantics of AAPA would destroy that upon which Young is based. Modifying Young's SCSI command block queues to store SCSI command blocks directed to a peripheral device in some order other than which the order in which the command blocks are

received (i.e., appending them to the end of a queue) would destroy the ability for the peripheral device to execute the SCSI commands in the order that they were received by a host system (please see, column 2, lines 9-11). Yet, Young bases his invention on the ability of peripheral devices to remove and execute SCSI commands in the order that they are received by a host system.

In view of the above, Young cannot be properly combined with AAPA since each would result in destroying that on which the other is based. Since, references cannot be properly combined with each other when such would result in destroying that on which the invention of one of the references is based, the Action has not presented a prima-facie case of obviousness of claims 1-6, 8-11, 13-21 and 23.

Withdrawal of the 35 USC §103(a) rejection of claim 1-6, 8-11, 13-21 and 23 is requested.

Conclusion

Applicant respectfully submits that the rejections to the pending claims have been traversed. The pending claims are in condition for allowance and action to that end is respectfully requested.

Respectfully Submitted,

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